

REMARKS

The examiner rejected claims 32-34 and 38-40 under 35 U.S.C. §103(a), as allegedly being unpatentable over U.S. Patent No. 6,370,514 to Messner in view of U.S. Patent Publication No. 2001/0007098 to Hinrichs, further in view of US Patent No. 6,169,975 to White and further in view of U.S. Patent Publication No. 2002/0022962 to Richardson.

The examiner rejected claim 35 and 36 under 35 U.S.C. §103(a) as allegedly being unpatentable over Messner in view of Hinrichs, White and Richardson, and further in view of Dixon.

Applicant's independent claim 32 recites "upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person". As explained in applicant's specification:

[0048] According to one embodiment of the present invention, the certificate is a LIFE LEGACY™ (Lifefiles.com, Inc.) free certificate. This certificate is available through selected purchasers, such as members of the funeral industry (such as funeral homes, cemeteries, other distribution channels, cremation societies, monument companies, and the like) and was paid for by the purchaser. The purchaser sells the certificate to a user, preferably at a profit. Each such certificate bears an authorization code and entitles the user thereof, upon activation of the certificate, to create a LIFE LEGACY™ tribute to a friend or loved one. (Paragraph 48, pages 4 of Pre-Grant Patent Publication No. 2002/0103723)

And:

[0069] If the user was to receive and/or purchase the online product, at 255, the user receives and takes advantage of the online product. For example, if the user had received a LIFE LEGACY™, the user may enter information about the individual or deceased the LIFE LEGACY™ is intended, upload images or videos of the individual or deceased, or the like. If the user received some other service, information needed to utilize the service is provided. Alternatively, if the online product that was purchased is a good, the user receives the good purchased at this step. (Paragraph 69, pages 6 of Pre-Grant Patent Publication No. 2002/0103723)

Thus, when a user, who purchased a certificate from an intermediate purchaser who initially purchased the certificate from an original vendor, provides an authorization code included on the certificate to a server (e.g., the vendor's sever), an on-line memorial (or tribute) for a deceased person may be generated. In other words, to generate an on-line memorial, a valid certificate with a valid authorization code must first be provided to the server before the server, upon granting authorization access, enables generation of the on-line memorial.

In rejecting independent claim 32, the examiner stated:

Messner does not explicitly disclose:

- ...
- upon granting authorization access, generating an on-line memorial for a deceased person
- ...

Richardson teaches that it is known to include granting access to generate an online memorial for a deceased person (at least abstract) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the invention, as taught by Messner, with the on-line memorial, as taught by Richardson, since such a modification would have only united elements of the prior art references, with no change in their respective functions and which yield predictable results.

(Office Action, pages 4-5)

Applicant disagrees.

Richardson describes website memorials that are accessible through funeral home websites (Richardson, page 1, paragraph 3). As explicitly stated in the abstract, as well as at other points in Richardson's specification, memorial sites are provided on a funeral home web site without a charge, and visitors to the memorial site may subsequently choose to pay (by following a link available from the memorial site) to maintain the memorial site:

A method of maintaining a memorial site on a funeral home web site, may include providing for the posting without charge of a memorial page on a funeral home web site, the memorial page corresponding to a deceased individual, the memorial page including a photograph of the deceased individual and identifying text; and providing for a payment option symbol on the memorial page or on a different web page linked to the memorial page, such that the payment option symbol can be activated to provide one or more payments for maintaining the memorial page. (Richardson, Abstract)

Richardson, therefore, does not describe granting access in response to entry of an authorization code, included on a certificate, to generate an on-line memorial. Quite the contrary, generating the memorial on Richardson's system is done without requiring any payment from any user, and thus, generating the memorial is done without requiring entry of an authorization code on a certificate. Moreover, Richardson does not even mention use of certificate, let alone the entry of authorization codes specified on such a certificate, in relation to any operation associated with on-line memorials. Thus, contrary to the examiner's contentions, Richardson fails to disclose or suggest at least the features of "upon granting authorization access

to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person,” as required by independent claim 32.

Furthermore, none of the other cited references discloses or suggests the features of “upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person.”

Particularly, and as explained in greater details in applicant's August 8, 2008, Reply to Office Action of February 11, 2008, Messner describes methods for mass distribution of vouchers for redemption at a specific merchant/virtual mall, or on the Internet as a whole via a computer network (Messner, col. 1, lines 21-24). However, Messner does not describe that such a certificate enables the user in possession of the certificate to, upon entry of an authorization code specified on the certificate, generate an on-line memorial for a deceased person. Messner does not even mention or discuss creation/generation of memorials or performing other types of funeral industry services. Accordingly, Messner too fails to disclose or suggest at least the features of “upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person,” as required by independent claim 32.

Hinrichs describes gift certificate award and redemption programs, for example, programs in which an employer awards employees using gift certificates (Hinrichs, page 3, paragraph 3). But nowhere does Hinrichs describe certificates with authorization codes that enable users in possession of such certificates to, upon entry of the authorization codes, generate on-line memorials. Indeed, Hinrichs does not at all refer to memorials or any other type of funeral industry service. Accordingly, Hinrichs also fails to disclose or suggest at least the features of “upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person,” as required by applicant's independent claim 32.

White also fails to describe pre-paid cards with authorization codes which, when entered, enable generation of an on-line memorial. White, like Messner and Hinrichs, is not at all directed to providing and/or performing any type of funeral-related item or service. Accordingly, White also fails to disclose or suggest at least the features of “upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person,” as required by applicant's independent claim 32.

Because none of the references relied upon by the Examiner discloses or suggests, alone or in combination, at least the features of “upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person,” applicant’s independent claim 32 and the claims depending from it are therefore patentable over the cited art.

Additionally, applicant further contends that no reason exists to combine Hinrichs with Messner, White and/or Richardson (the combined four references used to reject independent claim 32 as obvious), and that for this reason too, independent claim 32 is patentable over the cited art.

In *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 2007 (2007), the Supreme Court reversed a decision by the Court of Appeal’s for the Federal Circuit decision that reversed a summary judgment of obviousness on the ground that the district court had not adequately identified a motivation to combine two prior art references. The Court noted:

“As is clear from cases such as *Adams* [citation omitted] a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.” (Emphasis added, pages 14-15)

In this case, none of Messner, Hinrichs, White and Richardson articulates any reason whatsoever to combine these disparate systems and methodologies respectively disclosed by these four (4) combined references.

Accordingly, for this reason too, applicant’s independent claim 32 and the claims depending from it are patentable over the cited art.

It is believed that all the rejections and/or objections raised by the examiner have been addressed.

In view of the foregoing, applicant respectfully submits that the application is in condition for allowance and such action is respectfully requested at the examiner's earliest convenience.

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

Based on the foregoing, this application is believed to be in allowable condition, and a notice to that effect is respectfully requested.

If a telephone conversation with Applicants' attorney would help expedite the prosecution of this application, the Examiner is invited to call the undersigned Attorney at (617) 542-6000.

Applicants believe no fee is due at this time; however, the Commissioner is authorized to charge any fees that may be due to the undersigned's account, Deposit Account No. **50-0311**, Reference No. **36353-501**, Customer No. **64046**.

Respectfully submitted,

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